

Assembly Bill No. 2812

CHAPTER 576

An act to amend Sections 60604, 60605, 60640, 60641, 60643, 60643.1, 60644, 60645, and 60648 of, and to add Sections 60642.5 and 60649 to, the Education Code, relating to achievement tests.

[Approved by Governor September 22, 2000. Filed
with Secretary of State September 23, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2812, Mazzoni. California Assessment of Academic Achievement.

Existing law requires the Superintendent of Public Instruction to design and implement, and requires the governing board of a school district to conduct, a testing program based on a statewide pupil assessment program consisting of (1) systematic achievement testing of pupils in grades 2 to 11, inclusive, pursuant to the Standardized Testing and Reporting (STAR) Program and (2) an assessment of basic academic skills and applied academic skills of all pupils in grades 4, 5, 8, and 10. Existing law states the intent of the Legislature that the achievement test used in grades 2 to 11, inclusive, be augmented with items that assess the specific grade-level content standards and produce valid and reliable scores for pupil achievement for each of the performance standards adopted by the board.

This bill would delete the intent of the Legislature regarding the augmentation of the achievement test and instead would require the Superintendent of Public Instruction, with approval of the State Board of Education, to provide for the development of an assessment instrument that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the State Board of Education. The bill would require this standards-based achievement test to include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skills if deemed valid and reliable and if resources are made available for their use. The bill would require the State Board of Education, in approving a contract for the development or administration related duties of the standards-based achievement test, to consider prescribed criteria.

The bill would delete the requirements regarding the assessment of basic academic skills and applied academic skills of all pupils in grades 4, 5, 8, and 10 from the statewide pupil assessment program.

Existing law requires the State Board of Education to ensure that the statewide assessment system yields valid, reliable estimates of

individual pupil performance, school performance, school district performance, and statewide performance of pupils that assesses basic academic skills and incorporates the use of direct writing assessment and other assessments of applied academic skills if deemed valid, reliable, and cost effective.

This bill would instead require the State Board of Education to ensure that the statewide assessment system yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and the extent to which pupils are meeting content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

Existing law requires the State Board of Education, following consideration of recommendations of the Superintendent of Public Instruction, to award a contract or contracts to develop performance standards according to competitive bidding procedures.

This bill would delete this requirement.

Existing law required the State Board of Education to consider certain criteria when designating the nationally normed achievement test. Among those criteria is the ability of the test publisher to report results, as specified, by July 8.

This bill would extend the reporting deadline to August 8.

The bill would require the Superintendent of Public Instruction and the State Board of Education, on or before March 1, 2001, to report on the status of implementing the statewide pupil assessment program as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 60604 of the Education Code is amended to read:

60604. (a) The Superintendent of Public Instruction shall design and implement, consistent with the timetable and plan required pursuant to subdivision (b), a statewide pupil assessment program consistent with the testing requirements of this article in accordance with the objectives set forth in Section 60602. That program shall include all of the following:

(1) A plan for producing valid, reliable, and comparable individual pupil scores in grades 2 to 11, inclusive, and a comprehensive analysis of these scores based on the results of the achievement test designated by the State Board of Education that assesses a broad range of basic academic skills pursuant to the Standardized Testing and Reporting (STAR) Program established by Article 4 (commencing with Section 60640).

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level,

county-level, and statewide scores in grades 2 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605.

(3) Statewide academically rigorous content and performance standards that reflect the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(4) A statewide system that provides the results of testing in a manner that reflects the degree to which pupils are achieving the academically rigorous content and performance standards adopted by the State Board of Education.

(5) The alignment of assessment with the statewide academically rigorous content and performance standards adopted by the State Board of Education.

(6) The active, ongoing involvement of parents, classroom teachers, administrators, other educators, governing board members of school districts, and the public in all phases of the design and implementation of the statewide pupil assessment program.

(7) The development of a contract or contracts with a publisher or publishers, after the approval of statewide academically rigorous content standards by the State Board of Education, for the development of performance standards and assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate.

(b) The superintendent shall develop and annually update for the Legislature a five-year cost projection, implementation plan, and timetable for implementing the program described in subdivision (a). The annual update shall be submitted on or before March 1 of each year to the chairperson of the fiscal subcommittee considering budget appropriations in each house. The update shall explain any significant variations from the five-year cost projection for the current year budget and the proposed budget.

(c) The Superintendent of Public Instruction shall provide each school district with guidelines for professional development that are designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These guidelines shall be developed in consultation with classroom teachers and approved by the State Board of Education before dissemination.

(d) The Superintendent of Public Instruction and the State Board of Education shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of assessment instruments.



(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district in the same academic year in which the test was administered and no later than July 30 of the calendar year in which the test was administered.

SEC. 2. Section 60605 of the Education Code is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. Not later than November 1, 1998, the State Board of Education shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history-social science, and science based on the recommendations made by a contractor or contractors.

(C) The State Board of Education shall require the contractor or contractors to submit performance standards to the board not later than a specified date that allows sufficient opportunity for the board to conduct regional hearings prior to the adoption of the performance standards by the dates specified in subparagraph (B).

(2) (A) The State Board of Education may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the board by the commission or the contractor. The performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and shall not be construed to mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the board shall hold regional hearings for the purpose of



giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The State Board of Education shall require the State Department of Education to notify publishers of the opportunity to submit, for consideration by the State Board of Education pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 2 to 8, inclusive, and the core curriculum areas identified in subdivision (e) of Section 60603 in grades 9 to 11, inclusive.

(2) On or before October 31, 1997, the Superintendent of Public Instruction shall recommend to the State Board of Education which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The State Board of Education shall ensure that the statewide assessment system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) Nothing in this subdivision shall be construed to prevent the State Board of Education from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) To the extent feasible and as otherwise required, the State Board of Education shall ensure that assessments developed, or contracted for, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a).

(e) After adopting statewide content standards, the State Board of Education shall review the achievement test designated pursuant to Section 60642 for conformance with these statewide standards.

(f) After adopting statewide content and performance standards, the State Board of Education shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(g) The State Board of Education shall adopt regulations for the conduct and administration of the testing and assessment program.

(h) The State Board of Education shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

SEC. 3. Section 60640 of the Education Code is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 1997-98 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school

district, charter school, and county office of education shall administer to each of its pupils in grades 2 to 11, inclusive, before June 15, the achievement test designated by the State Board of Education pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5. The State Board of Education shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils no later than June 25.

(d) The governing board of the school district may administer achievement tests in kindergarten, and grade 1 or 12, or both, as it deems appropriate.

(e) Individuals with exceptional needs who have an explicit provision in their individualized education program that exempts them from the testing requirement of subdivision (b) shall be so exempt.

(f) At the school district's option, pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, may take a second achievement test in their primary language. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivisions (b), (c), (d), and (e) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable. Notwithstanding any other provision of law, the State Board of Education shall designate for use, as part of this program, a single primary language test in each language for which such a test is available for grades 2 to 11, inclusive, no later than November 14, 1998, pursuant to the process used for designation of the assessment chosen in the 1997–98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) Pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if such a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

(h) (1) The Superintendent of Public Instruction shall apportion funds to school districts to enable school districts to meet the requirements of subdivisions (b), (f), and (g).

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the

amount included in the Budget Act and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the State Department of Education and the contractor, shall be deemed to be “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202 of the Education Code, for the applicable fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the superintendent all of the following:

(1) The number of pupils enrolled in the school district in grades 2 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 2 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test pursuant to subdivision (e) of Section 60640.

(4) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

SEC. 4. Section 60641 of the Education Code is amended to read:

60641. The State Department of Education shall ensure that school districts comply with each of the following requirements:

(a) The achievement test designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5 are scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(b) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. Nothing in this subdivision shall be construed to require teachers to prepare individualized explanations of each pupil's test score.

(c) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of the pupil's parent or guardian.

(d) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting. These results shall be reported at the same meeting at which the results of the assessments of applied academic skills are reported pursuant to Section 60609, when those assessments are implemented.

(e) The publisher designated pursuant to Section 60642 and the publisher of the standards-based achievement tests provided for in Section 60642.5 shall make the individual pupil, grade, school, school district, and state results available to the State Department of Education pursuant to paragraph (8) of subdivision (a) of Section 60643 by August 8 of each year in which the achievement test is administered. The State Department of Education shall make the grade, school, school district, and state results available on the Internet by August 15 of each year in which the achievement test is administered.

SEC. 5. Section 60642.5 is added to the Education Code, to read:

60642.5. (a) The Superintendent of Public Instruction, with approval of the State Board of Education, shall provide for the development of an assessment instrument that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the State Board of Education. This standards-based achievement test shall contain the subject areas specified in subdivision (c) of Section 60603 for grades 2 to 8, inclusive, and the core curriculum areas specified in subdivision (e) of Section 60603 for grades 9 to 11, inclusive, and shall include, at a minimum, a direct writing assessment once in elementary school and once in middle or

junior high school and other items of applied academic skill if deemed valid and reliable and if resources are made available for their use.

(b) In approving a contract for the development or administration of the standards-based achievement test, the State Board of Education shall consider each of the following criteria:

(1) The ability of the contractor to produce valid, reliable individual pupil scores.

(2) The ability of the contractor to report results pursuant to subdivision (a) of Section 60643 by August 8.

(3) The ability of the contractor to ensure alignment between the standards-based achievement test and the academically rigorous content and performance standards as those standards are adopted by the State Board of Education. This criterion shall include the ability of the contractor to implement a process to establish and maintain alignment between the test items and the standards.

(4) The per pupil cost estimates of developing, and, if appropriate, administering the proposed assessment with a system to facilitate the determination of future per pupil cost determinations.

(5) The contractor's procedures to ensuring the security and integrity of test questions and materials.

(6) The contractor's experience in successfully conducting testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

(c) The standards-based achievement tests may use items from other tests including items from the achievement test designated pursuant to Section 60642.

SEC. 6. Section 60643 of the Education Code is amended to read:

60643. (a) To be eligible for consideration under Section 60642 or 60642.5 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, if selected:

(1) Enter into an agreement, pursuant to subdivision (e), with the State Department of Education by November 15, for the 1999–2000 school year, or by October 15, for any school year thereafter.

(2) With respect to selection under Section 60642.5, align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the State Board of Education.

(3) Comply with subdivisions (c) and (d) of Section 60645.

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

- (B) School level.
- (C) District level.
- (D) Countywide.
- (E) Statewide.
- (F) Comparison of statewide scores relative to other states.

(6) Provide disaggregated scores, based on limited-English-proficient status and non-limited-English-proficient status. For purposes of this section, pupils with “non-limited-English-proficient status” shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same form and formats listed in paragraph (5).

(7) Provide disaggregated scores by pupil gender and provide disaggregated scores based on whether pupils are economically disadvantaged or not. These disaggregated scores shall be in the same form and formats as listed in paragraph (5). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.

(8) Provide disaggregated scores for pupils who have individualized education programs and have enrolled in special education, to the extent required by federal law. These scores shall be provided in the same forms and formats listed in paragraph (5). This section may not be construed to exclude the scores of special education pupils from any state or federal accountability system.

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the State Board of Education and the State Department of Education in the medium requested by each entity, respectively, by the date set forth in subdivision (e) of Section 60641.

(b) It is the intent of the Legislature that the publisher work with the Superintendent of Public Instruction and the State Board of Education in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for “economically disadvantaged” status pursuant to paragraph (7).

(c) Access to any information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. Nothing in this chapter shall be construed to abridge or deny rights to confidentiality contained in the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable provisions of state and federal law that protect the confidentiality of information collected by educational institutions.



(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642 and the publisher of the standards-based achievement test provided for in Section 60642.5 shall comply with all of the conditions and requirements enumerated in subdivision (a) to the satisfaction of the State Board of Education.

(e) (1) Commencing January 1, 2000, a publisher may not provide a test described in Section 60642 or 60642.5 or in subdivision (f) of Section 60640 for use in California public schools unless the publisher enters into a written contract with the State Department of Education as set forth in this subdivision.

(2) The State Department of Education shall develop, and the State Board of Education shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

(3) For purposes of the contract authorized pursuant to this subdivision, the State Department of Education is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(4) The contract shall include provisions for progress payments to the publisher for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the amount budgeted for each separate and distinct component task provided for in each contract shall be withheld pending final completion of all component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.

(5) The contract shall require liquidated damages to be paid by the publisher in the amount of up to 10 percent of the total cost of any component task that the publisher through its own fault or that of its subcontractors fails to substantially perform by the date specified in the agreement.

(6) The contract shall establish the process and criteria by which the successful completion of each component task shall be recommended by the State Department of Education and approved by the State Board of Education.

(7) The publishers shall submit, as part of the contract negotiation process, a proposed budget and invoice schedule, that includes a detailed listing of the costs for each component task and the expected date of the invoice for each completed component task.

(8) The costs associated with item development shall be provided as a separate amount and shall not be amortized across the number of tests to be administered.

(9) The contract shall specify the following component tasks that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (2) of subdivision (a).

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

(E) Reporting of test results to the school districts, including, but not limited to, all reports specified in this section.

(F) Reporting of test results to the State Department of Education, including, but not limited to, the electronic files required pursuant to this section.

(G) All other analyses or reports required by the Superintendent of Public Instruction to meet the requirements of state and federal law and set forth in the agreement.

(10) The contract shall specify the specific reports and data files that are to be provided to school districts by the publisher and the number of copies of each report or file to be provided.

(11) The contract shall specify the means by which the delivery date for materials to each school district shall be verified by the publisher and the school district.

(12) School districts may negotiate a separate agreement with the publisher for any additional materials or services not within the contract specified in this subdivision, including, but not limited to, the administration of the tests to pupils in grade levels other than grades 2 to 11, inclusive. Any separate agreement is not within the scope of the contract specified in this subdivision.

SEC. 7. Section 60643.1 of the Education Code is amended to read:

60643.1. (a) (1) Commencing in the 1999–2000 school year, and each school year thereafter, the test publisher designated by the State Board of Education pursuant to Section 60642 shall make available a reading list on the Internet by June 1. The reading list shall include an index that correlates ranges of pupil reading scores on the English language arts portion of the achievement test designated pursuant to Section 60642 to titles of materials that would be suitable for pupils in each of grades 2 to 11, inclusive, to read in order to improve their reading skills. This reading list shall include titles of books that allow a pupil to practice reading at his or her current reading level and that will assist the pupil in achieving a higher level of proficiency. To the extent possible, the index shall also include information related to the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) Commencing in the 1999–2000 school year, and each school year thereafter, the test publisher shall make available, for purchase by school districts, a report that provides a numerical distribution of the reading scores of all pupils in California who took the achievement test designated pursuant to Section 60642.

(3) Commencing in the 1999–2000 school year, and each school year thereafter, the test publisher shall make available, for purchase by school districts, reading lists that can be distributed to pupils based on a pupil’s age and the ranges of scores on the English language arts portion of the achievement test designated pursuant to Section 60642.

(4) The requirements of this subdivision shall only become operative upon a determination by the Director of Finance that funds are available to make an adjustment pursuant to subdivision (h) of Section 60640.

(b) The State Board of Education and the Superintendent of Public Instruction shall jointly certify that the process used by the publisher to determine the reading levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

(2) The process results in a reading list for each reading span that provides titles at the pupil’s current reading level and the next higher level for challenging practice.

(3) The process results in a selection from the universe of titles from the list developed pursuant to subdivision (d) that matches each reading level.

(4) The process is unbiased in the selection of publishers’ titles from the legal compliance list.

(c) The titles listed at each reading level range posted on the Internet and the reading lists made available to school districts pursuant to subdivision (a) shall, at a minimum, include all relevant literature materials approved as of September 1, 1999, as being legally compliant pursuant to Article 3 (commencing with Section 60040) of Chapter 1, and the titles listed in all of the content area reading and literature lists that are developed and published by the State Department of Education and that have been determined by the department to meet the relevant reading level as certified pursuant to subdivision (b).

(d) By imposing the requirements of this section on publishers, it is not the intent of the Legislature to unfairly disadvantage any publisher who has otherwise met the requirements of this section or of Article 3 (commencing with Section 60040) of Chapter 1 of Part 33.

SEC. 8. Section 60644 of the Education Code is amended to read:

60644. In designating an achievement test pursuant to Section 60642, the State Board of Education shall adopt only a nationally normed test and shall consider each of the following criteria:

(a) Ability of the publisher to produce valid, reliable individual pupil scores.

(b) Quality and age of empirical data supporting national norm referenced data analysis of the proposed assessment.

(c) Ability to report results pursuant to the provisions of paragraphs (4) to (7), inclusive, of subdivision (a) of Section 60643 by August 8.

(d) Ability to report results that permit comparability between data from school districts' previous administration of standardized achievement tests, if feasible.

(e) Per-pupil cost estimates of administering the proposed assessment.

(f) The publisher's procedure for ensuring the security and integrity of test questions and materials.

(g) Experience in the successful conduct of testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

SEC. 9. Section 60645 of the Education Code is amended to read:

60645. (a) The panel established pursuant to Section 60606 shall review the achievement test designated by the State Board of Education pursuant to Section 60642, the standards-based achievement test provided for in Section 60642.5, and items identified in subdivision (d) for compliance with Section 60614.

(b) Any test questions or test content identified by the panel to be out of compliance with Section 60614 shall be recommended for deletion or replacement pursuant to subdivision (e) of Section 60606.

(c) The State Board of Education shall ensure that any question or content not in compliance with Section 60614 is deleted from assessments designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5.

(d) If necessary to maintain the requirements of Section 60642.5, the publisher shall replace deleted test content with revisions that comply with Section 60614 as required by the State Board of Education pursuant to subdivision (c).

SEC. 10. Section 60648 of the Education Code is amended to read:

60648. The Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, levels of pupil performance on achievement tests administered pursuant to this article in reading, English language arts, and mathematics at each grade level. The performance levels shall identify and establish the level of performance that is deemed to be the minimum level required for satisfactory performance in the next grade. These levels of performance shall only be adopted after the standards-based achievement tests have been aligned, pursuant to paragraph (2) of subdivision (a) of Section 60643, to the content and performance standards adopted by the State Board of Education pursuant to subdivision (a) of Section 60605.

SEC. 11. Section 60649 is added to the Education Code, to read:

60649. On or before March 1, 2001, the Superintendent of Public Instruction and the State Board of Education shall report to the

Legislature and the Governor on the status of implementation of this chapter. The report shall include, but not be limited to, the following:

(a) Description of the actions taken to ensure full coverage of academic content standards in assessments developed pursuant to this chapter.

(b) Identification of the types of test items designed to measure applied academic skills, as defined in subdivision (b) of Section 60603.

(c) The means by which the Superintendent of Public Instruction and the State Board of Education determine assessments are valid, reliable, and provide consistent year-to-year comparisons of student progress, consistent with nationally recognized and accepted test construction and implementation methodologies, as applicable.

(d) Recommendations to improve the state's assessment system, identifying related costs or savings, and increases or decreases in testing time.

